

**NEWPORT BEACH CITY COUNCIL AGENDA  
COUNCIL CHAMBERS – 3300 NEWPORT BOULEVARD  
May 25, 2010**

**I. STUDY SESSION – 3:30 p.m.**

**II. CLOSED SESSION – After Study Session – Council Chambers Conference Room**

**A. Conference with Legal Counsel – Existing Litigation (Government Code § 54956.9(a)):**

Six matters:

1. ***Status Report on Pending Litigation:*** We will report on a global basis on all pending litigation involving the City. This is an informational item only. No action, however, may be taken on any item unless it is specifically noticed below.
2. ***Kimberly Layne vs. City of Newport Beach*** – OCSC Case No. 30-2009-00326399-CU-PO-CJC
3. ***Olson vs. City of Newport Beach*** – OCSC Case No. 30-2010-00371973
4. ***Pacific Shores v. Newport Beach*** - U.S. District Court Case No. SACV 08-00457 AG (PLAx)
5. ***Newport Coast Recovery v. City of Newport Beach*** - U.S. District Court Case No. SACV 09-0701 DOC (ANx)
6. ***Yellowstone v. City of Newport Beach*** - U.S. Dept. of Housing & Urban Development Investigation No. 09-09-0834-8

**B. Public Employee Performance Evaluation, Discipline Or Dismissal (Government Code § 54957(B)(1)):**

The City Council will meet in closed session to consider the, employment, evaluation of performance, discipline, or dismissal of the following public employee(s).

***Titles:*** City Attorney

**C. CONFERENCE WITH LABOR NEGOTIATORS (Government Code § 54957.6):**

**Agency Designated Representatives:** Bill Avery of Avery & Associates and Terri Cassidy, Human Resources Director

**Employee Organization:** Multiple Newport Beach associations: Police Employees Association (PEA), Police Management Association (PMA), Newport Beach Employees League (NBEL), Newport Beach Professional & Technical Employees Association (Prof-Tech), and Newport Beach City Employees Association (NBCEA)

**III. RECESS**

**IV. RECONVENE AT 7:00 P.M. FOR REGULAR MEETING**

**V. ROLL CALL**

**VI. CLOSED SESSION REPORT (if applicable)**

Testimony given before the City Council is recorded.

Yellow light indicates that the speaker has one minute for summation;  
and the red light will signify when the speaker's time limit is up.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda  
will be made available for public inspection in the Office of the City Clerk  
located at 3300 Newport Boulevard during normal business hours.

In addition, such writings and documents will be posted on the City's website at [www.newportbeachca.gov](http://www.newportbeachca.gov).

**VII. PLEDGE OF ALLEGIANCE**

**VIII. INVOCATION**

**IX. PRESENTATION**

**Recognition of Elizabeth Nguyen for Receiving a Disneyland Resort Scholarship Award**

**X. NOTICE TO THE PUBLIC**

*The City provides a yellow sign-in card to assist in the preparation of the minutes. The completion of the card is not required in order to address the Council. Speakers must limit comments to five (5) minutes on agenda items. The Council has the discretion to extend or shorten the time limit on agenda or non-agenda items. As a courtesy, please turn cell phones off or set them in the silent mode.*

**XI. CITY COUNCIL ANNOUNCEMENTS OR MATTERS WHICH COUNCIL MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)**

**XII. CONSENT CALENDAR**

*All matters listed under **CONSENT CALENDAR (1 – 14)** are considered by the Council to be routine and will all be enacted by one motion in the form listed below. The City Council Members have received detailed staff reports on each of the items recommending an action. There will be no separate discussion of these items prior to the time the Council votes on the motion unless members of the Council, staff or the public request specific items to be discussed and/or removed from the Consent Calendar for separate action.*

*Members of the public who wish to discuss a Consent Calendar item should come forward to the lectern upon invitation by the Mayor, and state their name and item number. If the optional sign-in card has been completed, it should be placed in the box provided at the podium.*

**A. READING OF MINUTES/ORDINANCES AND RESOLUTIONS**

- 1. MINUTES OF THE ADJOURNED REGULAR MEETING AND REGULAR MEETING OF MAY 11, 2010.** Waive reading of subject minutes, approve as written, and order filed.
- 2. READING OF ORDINANCES AND RESOLUTIONS.** Waive reading in full of all ordinances and resolutions under consideration, and direct City Clerk to read by title only.

**B. ORDINANCE FOR INTRODUCTION**

- 3. AMENDMENT TO SECTION 11.03.020(B) OF THE NEWPORT BEACH MUNICIPAL CODE PERTAINING TO SPECIAL EVENT PERMITS.** Introduce Ordinance No. 2010-\_\_\_ amending Newport Beach Municipal Code Section 11.03.020(B) to eliminate farmers' markets from the special event permit process, and pass to second reading on June 8, 2010.

**C. RESOLUTIONS FOR ADOPTION**

- 4. APPROVAL OF RESOLUTION ADOPTING A SUPPLEMENTAL MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF NEWPORT**

**BEACH AND THE NEWPORT BEACH LIFEGUARD MANAGEMENT ASSOCIATION; AND ADOPTION OF RESOLUTION IMPLEMENTING A CalPERS TIME-IN-GRADE EXCEPTION.** a) Adopt Resolution No. 2010-\_\_\_ adopting the Memorandum of Understanding between the City of Newport Beach and the Newport Beach Lifeguard Management Association; and b) adopt Resolution No. 2010-\_\_\_ adopting the CalPERS Employer Paid Member Contribution Time-in-Grade Exception.

**D. CONTRACTS AND AGREEMENTS**

- 5. CIP STAFF SUPPORT SERVICES – APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT WITH ANDERSONPENNA PARTNERS, INC.** Approve Amendment No. 1 to Professional Services Agreement with AndersonPenna Partners, Inc. (AndersonPenna) for Engineering and Inspection Support Services at a not to exceed General Fund Cap of \$223,000, as well as a not to exceed budgeted enterprise project fund cap of \$200,000, and authorize the Mayor and City Clerk to execute the Agreement.
- 6. COASTAL ACCESS AND PEDESTRIAN CIRCULATION IMPROVEMENTS (C-3628) – COMPLETION AND ACCEPTANCE.** a) Accept the completed work and authorize the City Clerk to file a Notice of Completion; b) authorize the City Clerk to release the Labor and Materials Bond 35 days after the Notice of Completion has been recorded in accordance with applicable portions of the Civil Code; c) release the Faithful Performance Bond one year after Council acceptance; and d) authorize the City Manager and General Services Department to increase their FY10/11 Operating and Maintenance Budget by \$9,386 annually to accommodate the increased annual maintenance.
- 7. IRVINE AVENUE SIDEWALK WIDENING (C-4432) – COMPLETION AND ACCEPTANCE.** a) Accept the completed work and authorize the City Clerk to file a Notice of Completion; b) authorize the City Clerk to release the Labor and Materials Bond 35 days after the Notice of Completion has been recorded in accordance with applicable portions of the Civil Code; and c) release the Faithful Performance Bond one year after Council acceptance.
- 8. ENERGY EFFICIENT STREETLIGHT IMPROVEMENT PROJECT (C-4232) – AWARD OF CONTRACT.** a) Approve the project drawings and specifications; b) award the contract (C-4232) to Macadee Electrical Construction, Inc. for the total contract price of \$725,928.00, and authorize the Mayor and the City Clerk to execute the contract; c) establish a construction contingency amount of \$181,482 (25% of total bid) to allow for upgrades to the work if opportunities arise and to cover the cost of unforeseen work; and d) approve Budget Amendment No. 10BA-047 recognizing \$853,000 in federal stimulus monies from an Energy Efficiency and Conservation Block Grant and appropriating \$853,300 to Account No. 7251-C2202003 for this improvement project.
- 9. AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH MANAGEMENT PARTNERS, INCORPORATED FOR SPECIAL PROJECTS ASSISTANCE – JAN PERKINS.** Authorize the City Manager to enter into a contract with Management Partners, Inc. to provide professional services to the City Manager's Office at a rate of \$140 per hour, not to exceed a total amount of \$50,000.

**E. MISCELLANEOUS**

- 10. LEGAL PUBLICATIONS FOR ONE-YEAR CONTRACT COVERING FISCAL YEAR JULY 1, 2010 TO JUNE 30, 2011.** Authorize the City Clerk to publish a notice advertising for bids to be received on or before the hour of 4:00 p.m., on Friday, June 11, 2010, for a one-year contract covering the publishing and printing of legal notices, or other material required to be published and circulated in the City of Newport Beach.
- 11. BUDGET AMENDMENT TO ACCEPT A CHECK FROM CALIFORNIA STATE LIBRARY AND APPROPRIATE THE FUNDS FOR LIBRARY SERVICES.** Approve Budget Amendment No. 10BA-046 to increase expenditure appropriations by \$10,000 in Division 4010 (Support Services) and Division 4017 (Systems Services), and to increase revenue estimates for the same amount of Account No. 4010-4835, Library Services Technology Act.
- 12. STREET TREE DESIGNATION FOR HELIOTROPE AVENUE.** Amend the City Street Tree Designation List for Heliotrope Avenue.
- 13. 2010-11 PROPOSED BUDGET HEARING AND 2010-11 APPROPRIATION LIMIT HEARING.** Schedule a public hearing of the City's Proposed Budget and Appropriation Limit for the 2010-11 fiscal year on June 8, 2010, at 7:00 p.m. in the City Council Chambers, 3300 Newport Boulevard, Newport Beach, CA 92663, and direct the City Clerk to publish a notice of said hearings in accordance with Section 1102 of the Newport Beach Charter.
- 14. PLANNING COMMISSION AGENDAS FOR THE MAY 20, 2010 STUDY SESSION AND REGULAR MEETING.** Receive and file written reports.
- S16. BARRETT-JACKSON AUCTION COMPANY, LLC BANNERS – APPROVAL OF ENCROACHMENT PERMIT N2010-0150.** Conditionally approve the request of Barrett-Jackson Auction Company, LLC (Barrett-Jackson) for the installation of 60 private banners on City-owned street light poles, from June 1, 2010 to June 28, 2010 (installation shall be along Jamboree Road and MacArthur Boulevard in the Fashion Island area).
- S17. PROPOSED BUDGET AMENDMENT REGARDING OUTSIDE COUNSEL EXPENSE (SPECIAL LITIGATION).** Approve Budget Amendment No. 10BA-048 to transfer a combined total of \$650,000 from the General Fund and General Liability reserve funds to cover forecasted outside counsel costs related to special litigation, allocating (1) \$450,000 from the General Fund reserve fund to the Office of the City Attorney's ("OCA") budget line item 0510-8657; and (2) \$200,000 from the General Liability reserve fund to the General Liability Non-Tort litigation budget line item 6021-8654.

**ACTION: MOVE AFFIRMATIVE ACTION OF THE CONSENT CALENDAR, EXCEPT FOR THOSE ITEMS REMOVED.**

**XIII. ITEMS REMOVED FROM THE CONSENT CALENDAR**

**XIV. ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES**

**XV. PUBLIC COMMENTS**

*Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the Council. Speakers must limit comments to three (3) minutes. Before speaking, please state your name for the record.*

**XVI. PUBLIC HEARING**

15. BEAUCHAMP GENERAL PLAN AMENDMENT AND LOCAL COASTAL PROGRAM COASTAL LAND USE PLAN AMENDMENT (PA2009-067) FOR 2000-2016 EAST BALBOA BOULEVARD – GENERAL PLAN AMENDMENT NO. GP2009-001; LOCAL COASTAL PROGRAM COASTAL LAND USE PLAN AMENDMENT NO. LC2009-001; AND MITIGATED NEGATIVE DECLARATION NO. ND2010-001 – THE AMENDMENT WOULD CHANGE THE LAND USE DESIGNATIONS FROM PR (PARKS AND RECREATION) TO RS-D (SINGLE UNIT RESIDENTIAL DETACHED) AND RSD-B (SINGLE UNIT RESIDENTIAL DETACHED). a) Conduct a public hearing; and b) adopt Resolution No. 2010-\_\_\_ adopting Mitigated Negative Declaration No. ND2010-001 and approving General Plan Amendment No. GP2009-001 and Local Coastal Program CLUP Amendment No. LC2009-001.

**XVII. MOTION FOR RECONSIDERATION**

*A motion to reconsider the vote on any action taken by the City Council at either this meeting or the previous meeting may be made only by one of the Council Members who voted with the prevailing side.*

**XVIII. ADJOURNMENT – Adjourn in memory of Mike Dexter and Ann M. Henn**